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UNITED STATES DISTRICT COURT
FOR DISTRICT OF NORTHERN CALIFORNIA

RICARDO TAVARES, JOEL RODRIGUEZ

Plaintiffs,

vs.

DURAN HOGAN CONSTRUCTION, KURT
ROBERT HOGAN SR., RAMON DURAN JR.,
SYLVIA GARCIA HOGAN, MARIA ELENA
HOGAN AND DOES 1-10

Defendants

C08-1277 RS

CASE MANAGEMENT STATEMENT

In accordance with the Standing Order for All Judges of the Northern District of California, the parties in this matter hereby submit this Joint Case Management Conference Statement.

1 **1. JURISDICTION AND SERVICE**

2 The basis for the Court's subject matter jurisdiction over Plaintiffs' claims is the Fair
3 Labor Standards Act, 29 U.S.C. §§ 201 *et seq.*, as alleged in the Complaint. There are no
4 existing issues regarding personal jurisdiction or venue. There are no parties that remain to be
5 served.

6 **2. FACTS**

7 Plaintiffs assert that he and they were employed to work on numerous public works
8 construction projects which are funded in part by public funds of local municipalities or state of
9 California. While these projects are subject to prevailing wage laws and the corresponding rates
10 of pay, Defendants failed to pay the Plaintiffs the required prevailing wage rate and failed to pay
11 Plaintiffs the required overtime rate for hours worked in excess of 8 hours a day or and 40 hours
12 a week.

13 Plaintiffs seek unpaid overtime wages, unpaid prevailing wages which also impact the
14 regular rate for overtime work, "waiting time penalties" under California Labor Code § 203 for
15 failure to pay employees all wages due at the time of termination. Plaintiffs also seek restitution
16 under California Business and Professions Code § 17200.

17 The principal factual issues in dispute are:

18 1. Whether the time records maintained by Defendants accurately reflect the actual
19 number of hours worked by Plaintiffs;

20 2. Whether and to what extent Defendants have failed to pay Plaintiffs their wages;

21 **3. LEGAL ISSUES**

22 Plaintiffs assert that Defendants failed to pay them overtime pay in violation of the Fair
23 Labor Standards Act, 29 U.S.C. §§ 201 *et seq.* Plaintiffs also allege that Defendants field to pay
24 them the prevailing wage in violation of California Labor Code §§ 1194(a) and 1815. Plaintiffs
25 further alleges that Defendants failed to provide adequate paystubs and submitted false certified
payroll records in violation of California Labor Code § 226, § 1174 and § 1176. Plaintiff further
alleges that Defendants failed to pay their wages upon termination in violation of California

1 Labor Code § 201. Finally, Plaintiffs seek restitution of overtime wages in accordance with
2 California Business & Professions Code § 17200.

3 **4. MOTIONS**

4 Plaintiffs anticipate the filing of the following motions:

- 5 (a) Plaintiffs' motion for summary judgment or summary adjudication;
6 (b) Plaintiffs' Motion for Attorney's Fees.

7 **5. AMENDMENT OF PLEADINGS**

8 Plaintiffs do not anticipate the need to amend Complaint.

9 **6. EVIDENCE PRESERVATION**

10 Defendants have been notified of the need to preserve all evidence, including the
electronically stored evidence, and have taken steps to do so.

11 **7. DISCLOSURES**

12 Parties agree to serve their respective initial disclosures no later than July 15, 2008.

13 **8. DISCOVERY**

14 Parties agree to adhere to the limitations set forth in the Federal Rules of Civil Procedure.

15 **9. CLASS ACTIONS**

16 N/A

17 **10. RELATED CASES**

18 There are no related cases or proceedings pending before another Judge of this Court or
19 before another Court or administrative body.

20 **11. RELIEF**

21 Plaintiffs are yet to receive information and time cards from Defendants concerning each
22 Plaintiff, and do not have sufficient information to ascertain the amount of damages.

23 **12. SETTLEMENT AND ADR**

24 Parties agree to participate in a Court sponsored mediation or an early Settlement
25 Conference with a Magistrate Judge.

1
2 **13. CONSENT TO MAGISTRATE JUDGE FOR ALL PURPOSES**

3 Both parties consent to proceed before a magistrate judge for all purpose, including a trial.

4 **14. OTHER REFERENCES**

5 Parties do not believe this case is suitable for a binding arbitration and will not agree to
6 any other reference.

7 **15. NARROWING OF ISSUES**

8 N/A

9 **16. EXPEDITED SCHEDULE**

10 N/A

11 **17. SCHEDULING**

12 Parties submit the following schedule to this Court in relation to discovery, motions,
13 designation of experts, and pretrial conference and trial:

- 14 (a) Fact discovery cutoff on February 28, 2009;
15 (b) Expert reports March 31, 2009;
16 (c) Expert rebuttal reports April 30, 2009;
17 (d) Expert Discovery Cutoff May 31, 2009;
18 (e) Last day of hearing on dispositive motion on June 17, 2009;
19 (f) Trial starts July 20, 2009
20 (g) The parties agree to meet and confer concerning any modifications to this plan.

21 **18. TRIAL**

22 Both parties have requested a jury trial. The expected length of trial is 3-5 court days.

23 **19. DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS**

24 Plaintiffs have no person to disclose other than themselves.

25 **20. OTHER MATTERS**

N/A.

1 DATED: July 3, 2008

By: /s/ Adam Wang

ADAM WANG

Attorneys for Plaintiff

4 DATED: July 6, 2008

By: /s/ Paul Simpson

Paul Simpson

Attorney for Defendants